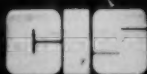


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**INS BUDGET AND OVERSIGHT ISSUES FOR
FISCAL YEAR 1987**

HEARING

BEFORE THE

**SUBCOMMITTEE ON
IMMIGRATION AND REFUGEE POLICY**

OF THE

**COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE**

NINETY-NINTH CONGRESS

SECOND SESSION

ON

**PROPOSED IMMIGRATION AND NATURALIZATION SERVICE BUDGET FOR
FISCAL YEAR 1987 AND VARIOUS OVERSIGHT ISSUES**

APRIL 25, 1986

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INS BUDGET AND OVERSIGHT ISSUES FOR FISCAL YEAR 1987

FRIDAY, APRIL 25, 1986

U.S. SENATE,
SUBCOMMITTEE ON IMMIGRATION AND REFUGEE POLICY,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The committee met, pursuant to notice, at 10 a.m., in room SD-226, Dirksen Senate Office Building, Hon. Alan K. Simpson, chairman, presiding.

Also present: Senator Simon.

Staff present: Richard W. Day, chief counsel and staff director; Carl Hampe, counsel; Dee Dee Herzog, staff assistant; and Robyn Bishop, professional staff member.

OPENING STATEMENT OF ALAN K. SIMPSON, A U.S. SENATOR FROM THE STATE OF WYOMING

Senator SIMPSON. Today this hearing will focus on the proposed INS budget for fiscal year 1987 and various oversight issues. In particular, we will be looking at how best to make necessary improvements in INS enforcement and service capabilities despite the general budget austerity that we must all recognize and work with.

There are two areas of the budget to which we will pay particular attention today: the inspections program and the detention program. Last year, this committee authorized funds for up to 150 new inspectors, but only 50 new positions made it through the appropriations process. Given the significant new responsibilities that INS inspectors appear to be facing, I am interested in adding the 100 positions that were not appropriated this year.

The detention program also faces a problem caused by increasing apprehensions and Fidel Castro's cancellation of our 1984 immigration agreement with Cuba. Because those Mariel excludables who would have been returned to Cuba under the agreement are no longer being returned, INS must now reduce its present detention functions to accommodate the costs of detaining the Mariel excludables. I believe the subcommittee should ensure that present INS detention operations are not inordinately encumbered by this additional burden. The detention problem is further aggravated by the fact that the INS daily apprehends more illegal aliens than we have detention spaces.

The hearing will also address a final "Medvid" issue that was not fully discussed at previous subcommittee hearings on that case: whether existing asylum policy and procedures adequately ensure

proper handling of applicants from Communist bloc nations. We will hear the specific recommendations of an INS task force on what measures should be taken to ensure that the Medvid incident is not repeated.

With that, there might be a member or two of the committee that will likely be present this morning, but we will now go forward. The Senate, of course, is not in session today, and that always makes a difference in attendance.

Our first witness this morning is the Commissioner. Commissioner Nelson, welcome to the subcommittee. As always, I am very anxious to hear what you have to share with us.

STATEMENT OF ALAN C. NELSON, COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE, ACCOMPANIED BY DORIS MEISSNER, EXECUTIVE ASSOCIATE COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE; RICHARD NORTON, ASSOCIATE COMMISSIONER FOR EXAMINATIONS, IMMIGRATION AND NATURALIZATION SERVICE; AND RAYMOND M. KISOR, ASSOCIATE COMMISSIONER FOR ENFORCEMENT, IMMIGRATION AND NATURALIZATION SERVICE

Commissioner NELSON. Mr. Chairman, thank you. It is a pleasure to be before you and your subcommittee. I would like to introduce those here with me at the table.

To my left is Richard Norton, the Associate Commissioner for Examinations. To my right is Doris Meissner, the Executive Associate Commissioner. Raymond Kisor, Associate Commissioner for Enforcement. We will be pleased, after reading in the record the statement, to have them respond to your questions, all of us. And I would like the statement to be accepted into the record in full, and I will summarize it.

Senator SIMPSON. Without objection.

Commissioner NELSON. We appear before you, Mr. Chairman, on our fiscal year 1987 budget request for \$609,339,000 and 11,694 positions. We believe this budget is in line with the President's commitment regarding the deficit reduction and to continue to support essential services.

It basically is a current services budget with \$1 million added for the SAVE Program which I will describe later. It should be clear for the record that we do not request resources in this budget for immigration reform legislation which we know you have so ably passed three times, and we hope your counterpart in the House can proceed rapidly and we will have a bill, and of course, additional resources will have to be added if that legislation which is so necessary is passed.

We have in the record the statement which reflects a number of Grace Commission and the contracting out provisions that we think we have done a fine job on in making some efficiency reductions and management improvements. Those are set forth.

In the inspections program, we have indicated that is an important point. We think there have been several important programs, and we allude to those again in our statement; the Inspections Prosecution Program, which has been very successful; a much improved Vehicle Seizure Program; and also a Fraud Intercept Task

Force. All of those have assisted us in doing a more effective job at the ports of entry that are so important.

Turning to border enforcement, 1984 was a recordbreaking year. It was even more so in 1985 when we apprehended over 1.2 million aliens, 94 percent at the southern border. The Border Patrol enhancement, which you and your subcommittee so ably assisted in, is now largely in place, and the results are being seen by the additional manpower as well as other equipment out on the border. Apprehensions have increased more than 43 percent in this fiscal year to date, while that can be compared against the 28-percent increase in manpower on the line. So clearly, while we are apprehending a lot more because of more people out there, we are seeing a greater surge even in the numbers that we are catching with more people. And we estimate this year approximately 1.8 million apprehensions, which is about a 50-percent increase.

Clearly, the reasons for this, I think, are fairly obvious; as is stated in our testimony, economic conditions in Mexico and other areas are the prime factors causing the increased flow.

Narcotics trafficking has been a major issue. The Border Patrol and INS generally have been much more involved in this area. In fact, we seize the most narcotics of any agency on the southern border. Last year, we had 886 seizures, a 28-percent increase. The value of drugs seized by INS, the Border Patrol particularly, tripled from about \$42 million the year before to \$120 million last year. The rate will be much, much higher this year, and we think that is a real credit to our people out there who know how to operate on the border areas, speak Spanish, and know how to do tracking. That has been very effective in the drug wars, in addition to dealing, of course, with our major role of apprehending and deterring illegal immigrants.

Violence, unfortunately, has been an increased problem. There were 150 recorded assaults last year against our agents, and that is an increase dramatically. We have seen again a further increase this fiscal year, so this is an area of concern.

Alien smuggling, we again note in our testimony some effective anti-smuggling convictions, prosecutions, and arrests, and we think it has been very effective under the case management system. One big operation was smuggling about 3,600 aliens a year into the country along with narcotics, and their income was over \$1 million a year. By the way, we are getting some better cooperation with the Mexican Government, and we look forward to continuing that in the smuggling, in the third country national area, narcotics and so forth. And I think we need to pickup there.

Last year, we apprehended over 18,000 smugglers and seized over 10,000 conveyances, conveyances with a value of over \$52 million. We are able, under the new laws, to incorporate almost 200 of those into our vehicle force.

We estimate in fiscal 1987 apprehending over 20,000 smugglers, with increases in all the other areas also. We think this can have a considerable impact on the smugglers here that are important ones.

Interior enforcement, the case management system is taking hold, focusing on criminal aliens, fraud schemes, aliens who receive benefits, and other major employer issues. We closed down 341

major fraud schemes last year. We have targeted in 1985 1,600 cases of notorious employers, and the best news of that is over 1,100 of those resulted in at least a significant cessation of hiring of illegal aliens. We will continue to focus in this area, hopefully, of course, with the help of employer sanctions because these aliens are in many cases displacing American citizens from jobs that are worth millions of dollars to our economy.

In the benefit area last year, with our programs, the SAVE Program in eight or nine States that are underway, we saved costs of over \$111 million. We think this can be greatly increased with the efforts underway now with the \$1 million we will be asking for. And of course, hopefully with the provision mandating this alien verification as part of immigration reform.

I might note one of our success stories during the year, of course, was the successful handling of the *Bhagwan Shree Rajneesh* case in Oregon which resulted in a \$400,000 fine and the Bhagwan leaving the country. I think again some excellent work by our people not only accomplished that result but avoided what could have been a very touchy confrontation situation.

In the detention area, as you have indicated, more than a million were expelled from the country last year. In addition to that, some 21,000 were formally deported and another 44,000 departed voluntarily after being placed under docket control. The detention situation is difficult, as you indicated. We did dedicate last month the Oakdale facility in Louisiana which will give a thousand additional spaces. It is an excellent facility in adding to the 2,239 capacity we have currently.

We have also been a leader, and we think effectively, in the contract detention facilities, adding another 900-bed capacity. We believe we have a very effective blend of the public and private correctional uses. In 1987, we expect to detain approximately 180,000 aliens, and about a third of those will be held in nonservice facilities.

As you pointed out, Mr. Chairman, the detention of Mariel Cuban criminals is a continuing and growing problem. With the cessation of the agreement, we have a number of the Mariel Cubans in our facilities. Many others, some 400 others, are in State and local facilities that we are holding at our expense; another 2,500 are in those facilities that unfortunately—well, fortunately for them, unfortunately for us—they will be released to us, as well as the Federal facilities. We will have to continue to deal with a very difficult problem in that area unless and until we can get the agreement with Cuba reinstated.

In the adjudication and naturalization area, I think our balanced adjudications system and priorities management system work well. As we have indicated, our backlogs have been almost totally eliminated, with a lot of credit to a lot of hard-working people doing this largely without any increases in staff. We think the systems have worked well.

The port of entry and the remote adjudications processing approach has worked well, and we see that that will continue to grow. It more than doubled in the last year as far as the remote adjudications centers and was up 45 percent as far as the processing at the ports of entry. In 1987, we expect to complete 900,000

adjudications at ports of entry and about 1.1 million at the remote centers and the district offices.

In 1985, over 250,000 persons were naturalized, and again, we have almost eliminated backlogs in that area.

In the data system dramatic progress has been made. The central index system now has 20 million alien case files on it. The SAVE Program which we alluded to, by that program we believe we saved well over a hundred million dollars. We believe there is many, many millions more than can be saved by this program, and that is why I think it is very significant, although the dollars are not large, that the one increase we have, other than some processing matters, is the \$1 million for the SAVE Program. Because if we get 20 more States on the program with this \$1 million, and the cost savings for that will be many hundreds of million dollars. It is a good system, it is fair, it works right. It saves the taxpayers money, it is good State and Federal Government, and the reason we are so interested, it is another important area of deterring illegal aliens. The job market and the benefit market work together in that regard so we would ask the committee's support of that.

The non-immigrant information system—the NIIS system—57 million records are now being maintained on this data base. We have expanded our "Ask Immigration" telephone system; we received over 2 million inquiries last year. That is over half the total that come in.

The national automated immigration lookout system is very critical, particularly as we are concerned about terrorist issues and others. And that is now in a number of locations, and we want to expand it.

Casework systems, data processing casework systems are implemented in naturalizations and deportations and in legal cases. These all have meant great increased productivity; they have reduced backlogs and increased service to the public.

This year, we installed over 1,500 computer work stations so we are able to get the system out where people can use it.

There might be questions on the GAO report and others, but let me make one comment. I think what we cover here has shown dramatic progress in data processing, particularly where we were 5 years ago. We cannot do our job any more than the Internal Revenue Service or other major organizations can unless we have an effective data processing system. We have made dramatic improvements, and I will give you one good example.

In 1979, Attorney General Griffin Bell, at the time of the Iranian hostage crisis, said, "Give me the number and location of the Iranians in the United States." The Immigration Service was unable to do that at that time. That same question can be asked today as to the number and location of Libyans in the United States, and that information can be provided almost simultaneously with the request. I think that is a dramatic example of how the data processing system has worked, and we have made big progress. We strongly differ with most of the GAO conclusions, although in some areas we agree with the forward motions that need to be taken. But the important thing is we cannot slowup the dramatic progress being made or certainly pull out any of the equipment that has been

there. Of course, we would be happy to respond in more detail there.

In the legal area, we have made dramatic accomplishments. We have litigated over 700 cases in the Federal courts. We have been upheld in over 90 percent of those cases, including the Supreme Court. The Special Assistant U.S. Attorney Program has worked very, very well and has been expanded over the years. We are, as other agencies also, pursuing the more vigorous collection of debts. We collected over \$3 million of debts owed to INS last year, and we expect to expand that. Our department, particularly, at INS was involved as part of the negotiating team that achieved the agreement with Cuba a year or so ago on the return of the Cuban criminals, and we hope to continue to work with State and others and we hope that we will get that reinstated.

So with that, Mr. Chairman, I conclude our statement and will be pleased to respond to you and to Senator Simon with any questions.

[Statement follows:]

PREPARED STATEMENT OF ALAN C. NELSON

Mr. Chairman and Members of the Subcommittee:

I am pleased to have the opportunity to appear before you in support of the FY 1987 budget request for \$609,393,000 and 11,694 positions for the Immigration and Naturalization Service. This budget is in line with the President's commitment to reduce the deficit and to continue to support essential government programs such as those which can only be performed by INS under Federal Statutes.

Since the Service's request contains increases primarily for rising costs due to inflation, we expect to do more in FY 1987 with roughly the same personnel and budgetary resources available in this budget year.

The budget is a current services budget, with the exception of a \$1 million increase to expand the Systematic Alien Verification for Entitlements (SAVE) Program, which I will cover in more detail in a few minutes. There are no resources in this request for immigration reform.

In the last two years the Service implemented the recommendations of the Grace Commission through reductions of \$6,400,000, 200 positions, and 200 FTE workyears. These savings have been achieved through numerous management improvements, and a realignment of roles and responsibilities of personnel in the Central and Regional Offices. In FY 1987 the Service will achieve additional savings in operations through productivity improvements under OMB Circular A-76 by reducing vehicle maintenance costs \$482,000 and cutting 42 FTE workyears allocated to this activity.

The Service's Management Team will be making further efforts in the future to improve output and to increase the taxpayers' return on their "investment" in the Immigration and Naturalization Service.

Inspections

During 1985 we made a number of improvements in the inspections program which are enhancing the productivity of our workforce. Under the Inspections Prosecution Program, immigration inspectors, who detect a violation of the law which results in an arrest, work with U.S. Attorneys offices during case processing and prosecution. This approach has been successful, with a 90 percent conviction rate, and has led to much better working relationships with the U.S. Attorneys.

With the new Inspections Vehicle Seizure Program, inspectors are now handling each vehicle seizure case at ports of entry instead of turning cases over to investigators. This has led to more timely, efficient processing of cases, with a ten percent increase in vehicle seizures at ports of entry.

The Fraud Intercept Task Force Program completed its second year of operation, continuing to show that the amount of time available for inspections of aliens is directly related to the rate of detection of fraudulent and malafide applicants for admission to the country. This program allows for a slightly longer time for each inspection without impeding traffic flow. For example, at the port of entry in Calexico, California, a time increase of 3.4 seconds for the primary inspection process produced an average increase of 63 percent in the rate of fraud detection and 156 percent in the rate of malafide detection. The resources provided by the Congress in our 1986 appropriation will allow us to make use of the Fraud Intercept Task Force Program at a greater number of ports of entry, at a time when we expect increases in fraudulent and malafide entry attempts, particularly by alien criminals and potential terrorists.

Border Enforcement

When I appeared before you last year I told you that 1984 was a record breaking year for the Border Patrol in the apprehension of aliens, and that I expected similar records in the future. This certainly was the case in 1985. The Patrol apprehended 1,262,435 aliens, of which about 94 percent were on the

Southern border. The FY 1985 Border Enforcement Enhancement is now largely in place, and the results are startling. Apprehensions have increased more than 43 percent for the first four months of this fiscal year over a year ago while productive agent hours increased 25 percent over the same time period. Given the current apprehension trend, we now estimate 1.6 million apprehensions nationwide in FY 1985. The increase in apprehensions, above what we had expected from the FY 1985 Border Enforcement Enhancement, is evidence of an even greater surge of people across our Southern border.

In 1987, the illegal alien flow may be similar to what is occurring at this time. There will have to be reversals in the ever declining value of the peso and in the continuing drop in oil prices before the trend stabilizes. We expect that migration trends in Mexico and Central America will continue to be related to economic factors and political unrest. Until progress is made in resolving problems in these two areas, large numbers of individuals will persist in their efforts to enter the country illegally. Therefore, the Border Patrol must maintain its recently increased presence along the border, along with its added equipment and technology, to counteract the rising flow of aliens attempting illegal entry across our borders.

Narcotics trafficking remains a growing problem that must be confronted by the Border Patrol. Our Border Patrol Agents made 886 narcotics seizures at the borders in the last fiscal year. This was a 28 percent increase from the previous fiscal year. The value of seized drugs nearly tripled in the same period, to \$120 million from \$42.5 million.

1985 was also a year in which violence on the border increased markedly. There were over 150 recorded assaults against our agents resulting in 93 injuries last year. It appears that assaults and injuries will also be a problem in 1986, as assaults have already jumped by 75 percent in the first quarter of this year over last year.

Alien Smuggling

In the coming year alien smuggling activity should continue to be a major problem due to the vitality of the U.S. economy and demand in some industries for illegal alien workers who can be exploited and paid lower wages than could be paid to U.S. citizens. Increases in Border Patrol apprehensions may cause more aliens to turn to smugglers as a means of getting into the country and obtaining the jobs they are seeking.

Under the case management system the investigations undertaken by Anti-Smuggling units focus on the more complicated cases. For example, a number of significant investigations of large-scale smuggling organizations were conducted during 1985. In one of these cases, a major alien smuggling and narcotics ring, operating out of a truck stop in the El Paso area, was broken up. This investigation resulted in the arrest of twenty-one persons involved in the smuggling ring and eighty-two illegal aliens. Our investigators estimate that this operation was bringing in 300 or more aliens into the U.S. each month (3,600 per year). They were smuggling various narcotics as well. Their estimated monthly "income" was around \$90,000 (over \$1 million per year). Another indication of the magnitude of this operation is the property seized by the government: sixteen semi-trailer-trailers and a pick-up truck. In addition to this smuggling ring, our investigators are working on leads involving several other smuggling operations which were using the same truck stop.

In San Diego a well-organized infant smuggling ring, operating between Tijuana, Mexico, and several large cities in the U.S., was broken up, with the arrest of two of the major arrangers and smugglers, who obtained babies from unwed mothers in Mexico. Our investigators estimate that this organization, posing as an adoption agency, smuggled at least 26 infants into the country, charging as much as \$4,000 per child. Fraudulent birth certificates were provided with each child in an effort to make their activities appear legitimate.

Servicewide in 1985 INS officers apprehended 18,077 alien smugglers, resulting in 1,073 major and 5,587 minor prosecutions. Convictions were obtained

on 1,463 felony charges and 3,660 misdemeanors. A total of 10,348 conveyances (cars, trucks, vessels, airplanes) were seized, with an estimated value of more than \$52 million. The Service retained and incorporated 192 suitable vehicles into its fleet.

In 1987 we are projecting the Servicewide apprehension of 20,500 alien smugglers, leading to 7,200 prosecutions (based on past experience with U.S. Attorneys' offices). The prosecutions should result in convictions on 6,800 charges and sentences totaling 50,000 months (4,167 years). This will obviously have a considerable impact on a number of alien smugglers who will be out of "business" for quite a while.

Interior Enforcement

In 1985 the Service's Investigations program operated for its second year under a case management system which has greatly improved the way that personnel and supporting resources are allocated to the thousands of cases which are investigated each year. Highest priority cases are those which involve criminal aliens, fraud schemes to obtain immigration benefits, and aliens who illegally receive benefits from government entitlement programs. During the last fiscal year our investigators closed down 341 major fraud schemes. Typically, these cases involve perpetrators who assist a number of illegal aliens through the manufacture, distribution, and sale of bogus documents. Marriage fraud rings are also frequently investigated and closed down.

In 1985 over 1,600 cases targeting notorious employers of illegal aliens were completed. More than 1,100 of these resulted in the cessation of hiring of illegal aliens. The elimination of employment opportunities is important if we are to discourage economic migrants from entering the country illegally. During 1985, 34,567 employed deportable aliens were located and apprehended by Service investigators. Many of these aliens were displacing citizens from desirable jobs worth millions of dollars.

Also during the last year 36,305 illegal aliens were identified as applicants for or enrollees in government assistance and benefits programs such as

welfare/AFDC, unemployment compensation, etc. The savings obtained by not enrolling and removing ineligible aliens from entitlement programs was calculated to exceed \$111 million for FY 1985.

Last year a major long-term investigation was completed in Oregon, involving Bhagwan Shree Rajneesh and the Rajneesh Foundation International. Numerous violations of the immigration statutes were uncovered, including conspiracy, false statements, visa fraud, and harboring illegal aliens. Rajneesh and seven others were involved in arranging in excess of 400 fraudulent marriages to enable "cult" members to remain in the U.S. As a result of our work, Rajneesh pled guilty to two felony counts, was fined \$-00,000, and agreed to leave the country. Other individuals remain under investigation or are awaiting trial.

In another operation, a joint INS-Health and Human Services investigation led to the arrest of a group engaged in counterfeiting and selling altered registration cards and Social Security cards to aliens.

Our heavy investigations workload in 1987 will involve an estimated 28,400 case completions, 16,200 apprehensions from casework, and 54,700 other apprehensions.

Detention and Deportation

In 1985, the Detention and Deportation program played a very active role for the Border Patrol and investigative activities. More than one million illegal aliens were expelled from the country, immediately after their apprehension. In addition, 21,561 aliens were formally deported, nearly 2,000 were excluded, and 44,538 departed voluntarily after being placed under docket control by the Detention and Deportation program.

In addition to the expulsion function, the Detention and Deportation program is responsible for the detention of aliens who are in the U.S. in violation of the law. A high priority of the Service in 1985 was to provide

adequate detention space and services consistent with apprehension needs. The combined rated capacity of the major Service Processing Centers was expanded to 2,500. The new 1,000-bed Inmate Alien Detention Center at Oakdale, Louisiana will become operational later this month. This facility will provide 1,000 additional beds and space for detainees, freeing up space in facilities closer to the border which are designed for handling large numbers of aliens for relatively short stays.

We are continuing to use contract detention facilities in Los Angeles, Las Vegas, Denver, El Paso, Laredo, and Houston. These facilities provide INS an additional 900+ bed capability. Without the additional space available through the contractual approach the existing Service facilities would be overwhelmed. INS has been the leader in the use of contract detention. We believe we have a effective blend of public and private uses in this area. Overall in 1987, we expect to detain approximately 181,000 aliens. Of this number, about 68,000 will be held in non-Service facilities.

The detention of Mariel Cuban criminals is a continuing and growing problem for INS, since the Cuban government suspended the repatriation agreement which was reached with them in December 1984. While the agreement was in effect, 201 Cubans were repatriated. INS currently has 248 Mariel Cubans in its facilities. More than 400 others are being held, at considerable expense to INS in non-Service detention facilities. There are more than 2,500 other Mariel Cubans with INS detainees in state and local prisons who are being released into INS custody at a rate of about 80-100 per month. All this comprises an expensive and challenging problem for the Service in 1986 and into 1987.

Adjudication and Naturalization

The adjudications program continued to function efficiently during 1985 due to the use of the Balanced Adjudications System and the Priorities Management System. These management tools focus on distributing the workload and resolving backlog problems where they appear to be developing. As a result, adjudications backlogs were almost totally eliminated during 1985.

Under the Balanced Adjudications System, certain types of applications for immigration benefits are sent either to ports-of-entry (for completion by immigration inspectors during stand-by time) or to remote adjudications centers (where examiners are relatively free from interruptions such as telephone calls and office visits). In the last two years, port-of-entry completions were up by 45 percent. In the same period remote adjudications centers completions have more than doubled. These gains can be attributed to our emphasis on productivity improvements. In 1987 we expect to complete 900,000 adjudications at ports-of-entry and 1,125,700 at remote adjudications centers and district offices.

In 1985 over 251,000 persons were naturalized, making it one of our most productive recent years for this activity. Due to management improvements, by the end of 1985 the naturalization program nearly eliminated its backlog of cases. We expect to make additional backlog reductions in 1986 and 1987 without additional personnel.

Data Systems

In 1985 considerable progress was achieved in a number of major systems. The following will give you an idea of what has been accomplished.

The Central Index, consisting of nearly 21 million alien case files, became fully operational in September 1985. It was also expanded to provide access by state government offices. The index now supports over 50,000 inquiries a day. (This translates to over 12 million inquiries a year.)

Under the Systematic Alien Verification for Entitlements (SAVE) Program, participating states are allowed access to the Central Index to determine whether an alien applicant is eligible for the public funding entitlement being sought. Six states (California, Colorado, Illinois, Florida, Indiana, and Montana) are formally participating in SAVE. Pilot projects are also operating in a number of states, including Texas, Virginia, Idaho, and Louisiana. The INS budget request for 1987 includes an increase of \$1,000,000 to provide full

system access to 20 more states participating in the SAVE Program. This investment will result in cost savings much greater than this amount. In 1985, for example, formal participants and pilot project states avoided entitlement program costs of over \$111 million which otherwise would have been paid to ineligible aliens. Countless others no doubt were deterred by publicity about the program's success and did not apply for benefits. This program works. It cuts costs at a time when this type of effort is important at all levels of government. If all states were participating in the SAVE Program, an estimated \$2.8 billion could be cut from outlays for entitlement benefits.

Further improvements have been made in the Non-Immigrant Information System (NIIS), which is the only means the U.S. has to account for foreign visitors and diplomats. It is now possible to load over 625,000 records in a 24-hour period. Over 57 million records are now being maintained on this important database. NIIS provides current status information on nonimmigrants, reports on violators, and statistical information of considerable use to Service managers, as well as to intelligence agencies and the transportation industry.

During 1985 our automated "Ask Immigration" multi-lingual telephone answering services received over 2,220,052 inquiries of the over 4.5 million total telephone inquiries. This year and in 1987 we expect the automated inquiries to outnumber the conventional calls. Efforts are under way to make "Ask Immigration" easier to use, more comprehensive, and provide better service to the public, without increasing staff or costs.

The National Automated Immigration Lookout System was enhanced and fine-tuned to aid inspectors at airports and land ports of entry in the detection and deterrence of subversives and terrorists.

Three casework systems were implemented that allows the tracking and processing of naturalizations, deportations and legal cases. These automated tools have increased productivity and allowed us to reduce backlogs and increase service to the public by substantially decreasing the time it takes to process individual cases.

The Service has expanded and enhanced access to these systems by the acquisition and installation of 1,597 workstations. The expenditure of these funds has allowed the Service to produce more for less.

Legal Accomplishments

During 1984 the Office of General Counsel continued to perform its complex, important mission of providing legal counsel to the Commissioner and INS operations officials and representing the government's interests in litigation arising from the administration and enforcement of immigration and nationality statutes.

Attorneys representing INS litigated over 700 cases in Federal district courts and courts of appeal. The Service's position was upheld in over 90 percent of these cases. One case was successfully argued before the U.S. Supreme Court.

We continued to make extensive, expanded use of the Special Assistant U.S. Attorney Program, which places INS attorneys in U.S. Attorneys Offices where they engage in the defense of the Government's interests in civil litigation and in the prosecution of criminal cases involving alien smugglers, drug traffickers, perpetrators of immigration fraud, and Mariel Cuban criminals.

During 1984 extensive work by the Office of General Counsel and the Department of State led to the signing of an agreement with the Cuban government to repatriate excludable Cubans (particularly criminals). For several months this agreement was in effect, allowing the return of 201 individuals. Unfortunately, the Cuban government unilaterally suspended the agreement in May 1985 when Radio Jose Marti began its broadcasts.

In another important area, INS attorneys played a key role in the collection of over \$3 million of outstanding debts owed to INS. This effort has been extremely successful and has had a high rate of return on the staff resources committed to debt collection.

CONCLUSION:

The budget which you have before you today will provide the resources which INS needs to carry out its numerous and complex responsibilities.

Your interest and support in the past has allowed for vast improvements and positive, productive changes in the Service. I look forward to working with you to add to this impressive record.

Thank you for your attention. I will be pleased to answer any questions you or the other members of the subcommittee may have.

Senator SIMPSON. Thank you, Commissioner Nelson. Let me recognize the presence of Senator Paul Simon of Illinois, a very thoughtful and very energetic member of the subcommittee. It is a pleasure to work with him.

Good to have you here this morning.

Senator SIMON. Thank you very much, Mr. Chairman. It is a pleasure to work with you, and I have no opening statement. I am here to get wisdom from the Commissioner and the other witnesses.

Senator SIMPSON. Thank you very much.

You commented about naturalization and said that the backlogs were clearing. I have had an inquiry from the Los Angeles area stating that that is still very heavily backlogged. What is the situation there, at least with the backlog?

Commissioner NELSON. I might comment quickly, and then ask Mr. Norton to followup.

Los Angeles, of course, along with New York and a few other locations, has the heaviest workload. We have had a project going in Los Angeles now for some time, and they are on round-the-clock processing.

We have increased the processing dramatically in terms of number of naturalizations and timeframe. We have greatly cut down the backlog; I am not sure, maybe Mr. Norton can give you the exact time. Obviously, there are certain areas and certain timeframes when we still have some backlogs.

Overall they have been largely reduced. But we have processed many thousands more cases in Los Angeles and reduced the backlog dramatically.

I would ask Mr. Norton to expand.

Mr. NORTON. Yes. Unfortunately, Los Angeles will be the only city that we still anticipate a backlog in by the end of fiscal year 1986. We have some 38,000 cases which represent a 7-month backlog. But compared to the rest of the country, this is virtually our only problem site.

We have a couple of other minor problems caused by recent automation which required us to shutdown operations for a brief period of time, but we feel that we will be current, nationwide, in naturalization with the exception of Los Angeles.

Senator SIMPSON. So it is a 7-month backlog?

Mr. NORTON. Yes, sir.

Senator SIMPSON. And Florida, is that cleared there on naturalization?

Mr. NORTON. Florida has a significant backlog at this time, but again, through special efforts to rid us of the backlog in Miami and the other Florida cities, we expect to be current at the end of the fiscal year.

Senator SIMPSON. You have large swearing-in ceremonies; is that not what is done?

Commissioner NELSON. We certainly do when we can, and that has been very helpful.

Senator SIMPSON. You state in your testimony that an increase in apprehensions is evidence of an even greater surge of people across our southern border. And I believe you said that 94 percent of illegal aliens are coming across the southern border. Do you see an increase?

I noted the recent publicity of an increase in northern border apprehensions. Are you seeing anything like that?

Commissioner NELSON. Possibly Mr. Kisor can elaborate on that. Clearly, we do get illegal immigration across the Canadian border; the numbers are very, very small compared to the southern border. I am sure that will remain that way. But we have to be very alert up there. We have had terrorists come through the north, and we certainly have people using that approach. But the southern border remains to be, by far, still up in the 90 percent or much more of the illegal immigration across the southern border.

Mr. KISOR. The only other real increase we noted this year, Mr. Chairman, was people from the Dominican Republic coming up to Montreal and then down into the United States, I think that we have that well in hand now as a result of working with the State Department, with the Dominicans, and also with the Canadian Government.

Senator SIMPSON. In any event, you note in your testimony that there would have to be reversals in the ever-declining value of the peso and the continuing drop in oil prices before the illegal immigration trend would stabilize, at least at the southern border. However, your fiscal year 1987 budget document predicts no increases in work load for inspections or border patrol or investigations or antismuggling.

Does this imply that this "current services budget" cannot accommodate the likely increase in illegal immigration?

Commissioner NELSON. This is a difficult area, Mr. Chairman. Certainly, the work load increases are there, as indicated. As I think I have indicated to you and others before, and as I mentioned in my opening statement, this budget does not encompass any resources for anticipated immigration reform legislation. Clearly, if that is passed, our resources would have to go with that for the additional enforcement aspects. We are somewhat counting on that.

It is a time of tough budget for everybody that we must deal with, so we feel our current services budget can get us through, along with the other activities that we talk about and mention in there. And we do hope, of course, that the answer to part of this problem can be with the passage of the legislation.

Senator SIMPSON. Let me ask Mr. Kisor: The 1987 budget document states that 7 classes are now in session at the Border Patrol Academy with, I think, 305 agent trainees. This is the last wave of additional border patrolmen that Congress approved in 1984.

When will these agents be on line, and to which border patrol sectors will most of them be assigned?

Mr. KISOR. The last wave of seven classes, Mr. Chairman, were graduated March 29, and they went to the southern border. I do have a breakdown here that I could provide you, but I can tell you just briefly that 80 were assigned to San Diego; El Centro, 48; Yuma, 16; El Paso, 136; Marfa, 5; Del Rio, 18; Laredo, 17; and McAllen, 16. And we have other classes now in progress, sir.

They will also be graduated and placed on the southern border.

Senator SIMPSON. I might ask to what do you attribute the increase in drug seizures and assaults on INS officers in the southern border area?

Commissioner NELSON. I think in the area of the drugs that our people are out there; they tend to have probably more expertise in many ways. Again, they are very good at tracking and so forth. They speak Spanish. They are out in the open areas between ports of entry as well as at ports of entry, and I think they have a lot of expertise. And as drugs are becoming an important concern, they certainly have done a good job in that regard. I think that that needs to be recognized.

Clearly, indications are that there is an increased flow of drugs, and that is a concern to all of us. I was pleased to be with the Attorney General and six heads of American law enforcement agencies just last week in Cancun. This was our second law enforcement summit, so-called. There was an earlier one in December 1985 in San Antonio, and I think we got some very good dialog going with the Mexican officials. It is interesting that for the first time immigration is up there along with narcotics and other issues as major law enforcement concerns. So that is another thing where I think we will continue to be working very closely in not only the drug area but in others.

As far as the assaults on officers, I think it is a combination of things: Increased flow, probably increased frustrations, criminal activity for gain, and so forth. The people see this—the alien bandits, if you will, and others—as opportunities. I think it is a combination of many things. Again, it is certainly a concern, another point we had discussed with the Mexican officials, and we do hope to see some more activity on their side of the border as we have on ours to try to deter the violence.

Senator SIMPSON. Do we just apprehend more people with drugs, or do we actually see the flow of drugs increasing?

Commissioner NELSON. I think it is both.

Mr. KISOR. I think, Mr. Chairman, too, the pressure that NIMBIS has placed on southern Florida and the Caribbean Basin has created more traffic across the Mexican land border. They are grow-

ing their own brand of marijuana there, and are also getting into the business of growing heroin which is coming across the southern border between the ports of entry. As a result we are seeing more activity there and more violence with firearms. I think the Mexican economy has also created a more desperate environment in Mexico and more pressure for those people to come across.

Senator SIMPSON. Senator Simon, if you have any questions, you might want to pose them.

Senator SIMON. Yes. First of all, Commissioner, I was at a meeting at the Overseas Development Council the other day where Mrs. Meissner was representing your office and did it very well.

What do we do on the Cuban detainees? Just going through your figures, I see a total of 3,148. That includes those in State and local prisons. One of these days a Federal judge is going to issue some kind of an order, and we are going to be in trouble—at least that is what I sense.

What do we do?

Commissioner NELSON. Senator Simon, this is clearly one of the toughest problems we face, because there are just no easy answers. On the one hand, you certainly cannot release into society a number of these people that are clearly very, very dangerous. Norman Carlson, the Director of the Bureau of Prisons, has said that some of those in the Atlanta Penitentiary are the worst criminals he has seen in his career. Those cannot be released to the community under any circumstances.

On the other hand, obviously a number of others, if you cannot return them to Cuba, you have to deal with. Now, I think that we have dealt with this very effectively. You mentioned a Federal judge. We have had, of course, a number of proceedings before the Federal court in Atlanta as well as the 11th Circuit, and they have largely sustained the Government's position.

We have had a release program and we do, and we can release people to halfway houses or into the community. We have done it, but we have to be careful.

You must remember that we are down to, you might say, the hard core. One hundred twenty-five thousand came in from Mariel. We are talking about 5,000, 6,000 or so that are the real bad guys. And I think that is important that people realize that.

No one likes the idea of indefinite detention, and as time goes on it is going to increase the problem. But those we can release we will do so. We must detain the others. We must continue to work with the Cuban Government to try to reinstate that agreement so those people can be sent back to Cuba because they should not be a burden on the American taxpayer.

So we have to work at it from all aspects. Part of the problem is success breeds success. As we negotiated an agreement with Cuba in December 1984, the States became more alert to the people who were in their system and wanted to process them out to the Federal Government. We were agreeing to take them. As long as the flow out, the 200 did go back, that was good. Once that stopped, the outflow stopped but the inflow continued. So it is just a difficult problem. We have to look at it from all respects, but I think we do have a balanced approach, a balance between letting those out as they can be into a safe situation and to be sure that those who are

dangerous to society must be held until they can be sent back to Cuba.

Senator SIMON. I would be interested in getting a memorandum from you or someone on your staff as to what you see as the long run picture, assuming we cannot return these people to Cuba. I hope that can happen, but I think we have to be realistic that that may not be an alternative.

When we had a number of Cubans here, we adjusted their status to permanent status. We now have a group of Poles in this situation. I am from Illinois where we have a sizable Polish population. They live in kind of a limbo.

What would you think of doing the same thing for these Poles that we did for the Cubans?

Commissioner NELSON. Well, as you mentioned, the Poles are under an extended voluntary departure situation which protects them as far as going back. That would have to really be something I think Congress would have to consider, Senator.

I do not know that we have addressed it. We can certainly look into it. I think I am digressing from your question. Of course, we get a lot of pressure for other groups—Salvadorans, Guatemalans, Nicaraguans—to have extended voluntary departure and so forth. I think the administration position, Secretary Shultz, former Attorney General Smith corresponded with the Congress on that in saying that we do not think extended voluntary departure is a very good plan because it is really avoiding the immigration laws and avoiding the Refugee Act. So I think that is an area that is a difficult one, but I think it is the proper position.

As far as doing something for the Poles concerning an adjustment, I think all I can say is we would have to look at it. We have taken the position that frankly the Cuban Adjustment Act has served its purpose and frankly should be repealed. Because, again, it is a diversion from normal immigration; we have got to have standard procedures.

I know Senator Simpson feels this way, and so use the system and try to avoid the pressure by one nationality or another for some kind of special treatment. But it is a difficult area.

Senator SIMON. When you talk about repealing the Cuban provision, you would not repeal it—those who have permanent resident status would continue?

Commissioner NELSON. Oh, yes, absolutely. Prospectively only.

Senator SIMON. Right. It does seem to me for a lot of these Poles, and here we know the numbers. It is not like some of the other groups where we are uncertain. We could clarify their status by letting those who are on the EVD status adjust to permanent resident status.

Commissioner NELSON. Possibly Ms. Meissner or Mr. Norton could comment. I think that would take legislation in order to be able to do that.

Senator SIMON. OK.

Mr. NORTON. That is correct.

Senator SIMON. I note that both Secretary Shultz and the Attorney General have said now in recent months that we should not be excluding anyone because of their political beliefs from getting a

temporary visa. I have a bill in that would do precisely that. I do not know if you have had a chance to look at that bill.

Do you have any comments on that? I assume you do not disagree with the Attorney General and the Secretary of State.

Commissioner NELSON. I had better not. No, sir, I do not. I am not familiar with your bill specifically, but this would be in the various exclusion categories you are alluding to?

Senator SIMON. That is correct.

Commissioner NELSON. I think the statements of both the Attorney General and the Secretary of State were correct. It has been interesting; we sometimes get a lot of flak in this administration for excluding somebody under one of these statutory grounds, but I know I testified with Assistant Secretary Clark before the House 1 year ago. The State Department presented some statistics that this administration has excluded far less than the previous Carter administration did during a comparable 4-year period. So I think you tend to hear the cases that get a lot of notoriety, and often notoriety that is not accurate, such as the Farley Mowatt case which creates an impression, I think. So, therefore, the number that are excluded in that area are very, very, very small. They get a lot of attention.

But I think we would agree that there is some area that needs to be addressed, and clearly, I think we all feel very strongly that as a nation favoring free speech and free press that we ought to be very liberal in that area. And I think there is a need to do so.

Senator SIMON. Could you take a look at the proposal that I have in? I am not wedded to any language or anything, but it just seems to me that the idea is fundamentally a sound one that both the Attorney General and the Secretary of State have talked about.

Am I overusing my time?

Senator SIMPSON. You have 2 more minutes, and then I will take 10. I am watching very closely.

Senator SIMON. All right. Just a small thing, and I have written to your office on this. We have contact representatives in the various offices. In the Chicago area, our contact representatives do not speak any other language other than English. I am not suggesting that we replace them.

I think two things might be in order. One is to encourage them to take some Spanish or Polish language lessons. And I see we have a group of students that just walked in from somewhere. I do not know where they are from. Australia?

VOICE. Pennsylvania.

Senator SIMON. Pennsylvania. They are right next to each other. OK. Well, I hope that these students from Pennsylvania are going to be foreign language students in addition to everything else.

But, second, as vacancies occur, priority ought to be given to people who can speak another language. Do you have any comments on that?

Commissioner NELSON. Well, I think I certainly generally agree. It is obviously consistent with civil service regulations. But I cannot speak specifically to the Chicago office.

We do have bilingual people in most of our major locations, and I am a little surprised that the contact reps in Chicago would not have language skills in the other languages you mentioned.

We are the unique Federal agency. On the border, all border patrolmen are fluent in Spanish. I am not aware of any other Federal agency that has that as a job requirement. Again, a tremendous number of our people throughout the country, we have a very high percentage of Hispanic American employees in our workforce, many of whom speak Spanish—also Chinese and other languages. So I think largely we do a pretty good job. There is no question we should have that kind of skill whenever we can.

Senator SIMON. My staff has just pointed out to me that in your southern region you do have 74 percent of your contact representatives who do speak another language. But it just seems to me that if it takes some kind of regulatory change, something to move in the right direction is desirable there.

Thank you. Thank you, Mr. Chairman.

Senator SIMPSON. Indeed, Paul. We will come back in just a minute. We will just ping-pong it back and forth here.

You asked about the language issue, and, indeed, I think that Americans and the student population just do not take an interest in other languages. It is nice to have this group from Pennsylvania here. Senator Simon and I urge you to go forth from this chamber and take another language.

I heard a story the other day. The fellow said, well, "I am retired now. I have had time to learn another language every 6 months." He said, "Of course, I have not done it yet."

You will get it when you get home. [Laughter.]

Senator SIMON. Mr. Chairman?

Senator SIMPSON. Yes?

Senator SIMON. If you would yield. Since you are great on these oneliners, one of my favorite quotes is H.L. Mencken, the old cynical journalist from the Baltimore Sun who, in commenting tongue-in-check on the foreign language area, said, "If English was good enough for Jesus Christ, it is good enough for me." [Laughter.]

Senator SIMPSON. He was the one who said there was a subspecies of homo sapien known as "boobus americanus." Ah, yes, we will have to go to Baltimore together and go to his home.

Let me ask you: Is there any progress in attempts to reactivate the immigration agreement with Cuba?

Commissioner NELSON. Yes, but I think as Senator Simon reflected, that is not easy and it is not probably in the offing in the current time. You know the old adage that it takes two to tango, and Castro has been very unwilling to talk about it since Radio Marti went on the air. There have been continued discussions at various levels, and certainly the State Department is continuing to probe. And we have asked for further discussions at the National Security Council level of various options. So certainly, in summary, we are continuing to explore that possibility.

I have to be candid; there is no current indication of any reasonable likelihood in the near future, but we will continue to press on that. And we are exploring a number of other approaches to hopefully make that come to pass.

Senator SIMPSON. Let me ask you what pressures you get in the Justice Department and INS between Radio Marti continuing on the air and the loss of family reunification, legal immigration and return of prisoners.

What are you hearing on that?

Commissioner NELSON. Well, I would say we are not getting any of that. Of course, the Radio Marti decision was made through Congress and through the executive branch, and that is going on the air and will continue to be on the air. So there is really no discussion of the issue at this point.

Senator SIMPSON. I just wondered if there was not the pressure from the Cuban American community to reassess the advantages and disadvantages of Radio Marti, given the loss of family reunification and legal immigration flow and a return of these people who will not ever be allowed to be anywhere but in a prison in the United States.

I do not usually do this, but since it is Friday and we are out of session, it is a very informal gathering here. We have a very interesting delegation here. This is a visit of a delegation of immigration officials from the People's Republic of China who have just come into the hearing room. I am sure that this is a marvelous interchange that you will have in this session. I take it these gentlemen and ladies are here from April 19 to May 1. It is a pleasure to welcome you here, and if you would just tell us very briefly what this is, Alan.

Commissioner NELSON. Thank you, Mr. Chairman. I appreciate the brief interruption of the hearing to allow this introduction. It was just 1 year ago that several of us were invited by the People's Republic of China to visit their immigration officials. We had an excellent trip and were very hospitably received and had a very good dialog. So this is a return visit.

I would like to introduce their leader, Mr. Sao Lue; if you would stand please. And the other delegation members, if they would like to stand. Mr. Sao is the Director of the Division of Alien Entry-Exit Management and the Ministry of Public Security. He was our host in China. The other officials with him are a number of people both from the Border Defense Bureau as well as the Alien Entry-Exit Bureau from a number of locations in China. They showed good judgment in entering in San Francisco about a week ago. They had the opportunity to visit the San Francisco area as well as San Diego, and they even saw the border and the port of entry. They arrived last night here in Washington and will be here through Monday and then proceed to New York. So they are getting a good opportunity to see our operations. We had a little briefing this morning in our office, and we really appreciate the opportunity for them to sit in briefly and see our legislative process at work.

Senator SIMON. If I could just add a word of welcome, I feel a particular kinship. It so happens my parents were missionaries to China, and they were in the United States 1 month when I was born. But our home had Chinese things around it. I am probably the only member of the U.S. Senate who grew up playing mah jong, something that the members of their delegation will recognize but no one else will recognize here. But we are very honored to have you here.

And while you are here, if you can give us any tips on how to live within a budget, we will appreciate that, too.

Senator SIMPSON. Well, I see another thing that you and I have in common. I have played with the tiles of the bamboo and the

ivory and the four winds in mah jong. I, too, can play mah jong. My parents had a magnificent set with jade—it was beautiful.

Anyway, we welcome you here. Thank you so much. We wish you well. You have a fine agenda, and I am pleased to see you exchanging your views with our Justice Department. We have common problems with illegal undocumented persons and legal immigration.

Thank you for coming by.

Let me go back to another question; then I will go to Senator Simon. I just wanted to ask again of Mr. Norton. Congress approved 50 new inspector positions during final action on the 1986 appropriations for the department. That is 100 positions fewer than the Judiciary Committee had authorized last year, and I understand that, of course, the budget reduction act has disallowed the implementation of the 50 new inspector positions during this fiscal year.

Could you please tell the subcommittee whether these 50 new positions are on line; and if not, when they will be on line?

Mr. NORTON. Yes, Senator. And the bad news is no, they are not on line.

The 50-position increase represented about a 3-percent enhancement of our inspections work force, and because of the level of Gramm-Rudman-Hollings sequestration, we actually have a target figure that is 3 percent below what our last year's figure was. Our onboard strength we predicted at the end of the year to be about 1,406 positions.

We expect, however, with what the funding level is for fiscal year 1987 that we can begin hiring those positions on October 1.

I might add that the effects so far have not reduced our enforcement efforts. In fact, we have been able to improve our performance in those areas with such things as the Fraud Intercept Task Force and our Terrorism, Drugs and Fraud Teams. But the cuts may result, during the rest of this fiscal year, in some minor delays at some major ports of entry.

Senator SIMPSON. I have a final question; then I will move on. I understand there are significant new responsibilities on the horizon for the inspections program, with particular emphasis on the San Juan, PR, airport and the Honolulu airport. Could you please very briefly summarize those new responsibilities and supply a detailed list for the hearing record?

Mr. NORTON. We will certainly be glad to do that. In San Juan, American Airlines is creating a new hub. Unfortunately, this is not transferring our work somewhere else but creating new work where it has not existed before. Now we predict we are going to need 26 additional positions in San Juan some time during calendar year 1987 when the new facility is completed.

In Honolulu, our crisis is caused by some rescheduling by the airlines. For example, within a 4-hour period in the morning, we have up to 4,000 passengers arriving. We have attempted to solve this with hiring some part-time positions but feel the need for additional slots in order to handle that new volume.

We will supply a more detailed list right away.

Senator SIMPSON. Senator Simon.

Senator SIMON. Yes. First, I was just glancing through the report of the House Subcommittee on Courts, Civil Liberties, and the Administration of Justice of April 1986 on this Cuban question, and I note there is a case of *Diaz v. Haig* in the U.S. District Court for Wyoming. That is a Western State out there, Alan.

Senator SIMPSON. Good heavens, you are not going to read it, Paul.

Commissioner NELSON. I do not know that case.

Senator SIMON. But they found "indefinite detention pending deportation impermissible." This is an area where obviously I think we are going to have to come up with better answers than we have up to this point.

Let me shift to another area, and that is the marriage fraud area. I have introduced legislation that basically says you have a 1-year status in which you can prove at the end of that 1 year either joint property or in some other way show that in fact a marriage has in fact been consummated, that it is not a paper marriage. It is similar to the system that the British have. It also says that in the case of engagements, the two people have to have met each other before they come into the United States.

Have you had a chance to look at this legislation? And is the direction we ought to be going? How do we deal with this marriage fraud problem?

Commissioner NELSON. Senator Simon, let me make a few general comments and then ask Mr. Norton to elaborate.

Certainly, compliments to Senator Simpson and to you and the committee for your efforts in this area. The hearing you had last year was a very significant one. It drew a lot of attention. I think we all recognize in the immigration area and in dealing with illegal immigration that we must approach it from a multifaceted approach. Marriage fraud is a serious problem. A very high incidence of fraud is indicated. So something is necessary, and we do favor legislation. We think your bill is very fine. There are a few areas—and I will let Mr. Norton comment—that we would suggest changing, but we think the idea of the legislation and the basic concepts and parts of most of the bill are excellent. We certainly very much support the need for such legislation.

Mr. Norton, do you want to comment?

Mr. NORTON. Thank you. Let me reiterate the Commissioner's thanks to the committee for addressing this issue.

As you know, marriage fraud is growing to crisis levels, and we are seeing a fraud rate that we predict of 30 to 40 percent right now in our spouse visa petition process.

There are two concerns we have about the particular bill, though, Senator, and one is the length of the period of conditional status. We think that the 1-year period is extremely short, and the INS has recommended that it be lengthened to 2 years to enable us to get a better feel for how the marriage is proceeding.

I might add also that the 2 years, the way we have perceived it, would not affect a person's time building toward naturalization. There would be no penalty for that period.

The second area that we have concern about is the fact that the bill requires the marriage to be judicially terminated before we can take action to cause the marriage not to be the basis for a perma-

ment grant of residence. Many marriages, we feel, especially with the short timeframe, would persist on paper without judicial termination and not allow us to proceed into other areas of viability, such as whether the parties do live together, share joint property and that sort of thing that are normal indicators of a valid marriage.

Senator SIMON. I wonder if we could not set up just some informal meeting sometime with you, with Senator Simpson and Dick Day and confer with Mark Contreras of my staff and myself just to go over it. It seems to me the desirability for moving in this area is fairly clear, and we are talking about changes that I think we could work out.

Commissioner NELSON. We are most willing to, Senator. We appreciate it.

Senator SIMPSON. Let me pledge to you, Paul, we will do that. We will get with staff and we will set that up.

Senator SIMON. Good. And I have no further questions, Mr. Chairman.

Senator SIMPSON. Let me ask one further question. Mr. Norton, in connection with what I was asking about the inspections program and fraud interception—a task force proved in case studies during fiscal years 1984 and 1985 that increased inspector time per case leads to an increase in fraud detection. Could you please tell us briefly what are those increases in fraud detection, and what fraud detection successes or failures there were at the major land and airports of entry?

Mr. NORTON. Gladly. Yes. The Fraud Intercept Task Force was a temporary detail of about 10 persons to enhance our operations at particularly high profile ports of entry, both land border and airports. This 10-percent increase usually represented in the neighborhood of a 15- to 30-percent increase in our work force, yet the results were far beyond that small increase. We found that we increased our fraud detection rate anywhere from 70 to over 200 percent at each of these locations on the border, and anywhere from 20 to 170 percent at the airports. So we feel that we adequately demonstrated the impact and will submit through the budget process some considerations for positions to specifically address the fraud problem and the crisis that we have in mala fide entrants applying for admission into the United States. With relatively small increases we can significantly enhance our fraud detection rates.

Senator SIMPSON. Commissioner, you state in your testimony that the continued detention of the Mariel excludables comprises an "expensive and challenging problem for the Service in 1986 and into 1987." What will be the cost? You have outlined the problems and the social consequences. What will be the cost to the INS for this detention in fiscal year 1986, and what is the estimated cost for fiscal year 1987?

Commissioner NELSON. I might ask Mr. Kisor to respond to that, Mr. Chairman.

Mr. KISOR. Yes, sir, Mr. Chairman. In fiscal year 1986 the costs of Cuban detention will total \$7.8 million. With the continuing influx to our detention facilities from State and local institutions,

we forecast that fiscal year 1987 costs will range from \$11 million to near \$16 million.

Senator SIMPSON. So if the immigration agreement with Cuba is not reactivated, and we know we have these Mariel excludables in detention and must pay their maintenance, what other areas of the detention budget might suffer as we direct those resources there, and in what specific amounts will those other areas suffer?

Mr. KISOR. Well, the figures that I quoted you, Mr. Chairman, will be directly subtracted from the funds that are normally allocated for the detention of usually other than Mexican people who are apprehended coming into our country. INS had expected to spend nearly \$15 million on nonservice detention in fiscal year 1986. While we are trying our best to address the lack of suitable bed space by negotiating with other States, the Bureau of Prisons will be coming on line with a 200- to 300-bed facility in Oakdale, LA, next year. The second problem is adequate funding. This will be an enormous problem which will limit our capacity to detain other than Cubans in the near future.

Senator SIMON. Would my colleague yield on that?

Senator SIMPSON. Indeed. Go right ahead.

Senator SIMON. One of the things I noted in just glancing through budget figures briefly here, in 1977 we detained 294,000 aliens at a cost of \$7,600,000. In 1985, we detained 145,000 aliens, and it cost us \$36 million. Now is that because length of detention is much greater? Why are we now detaining fewer people for nearly double the cost?

Mr. KISOR. That is one of the problems, Senator Simon. The length of detention is increasing. However, there are other factors that enter into that equation, and I might defer to our Deputy Assistant Commissioner for Deportation, Joan Higgins, who is prepared to address those questions in detail.

Ms. HIGGINS. I am Joan Higgins, Deputy Assistant Commissioner of Detention and Deportation. Senator Simon, essentially there is a scarcity of detention space available. It has gradually become much more costly. We are spending on an average of \$52 on nonservice detention for Cubans. Just to give you an example of our problems, we are making arrangements with the States to house some of our Cubans in Minnesota. They are charging us \$62 per day for the Cubans. They have detention space available, but obviously they have budget problems and this is a way for them to solve some of their problems.

The costs have gone up, obviously, as space has become scarcer.

Senator SIMON. OK. Thank you.

Senator SIMPSON. What happens when you do not have the funds to detain apprehended aliens?

Ms. HIGGINS. Well, essentially, not only will our problems with Mariel Cubans impact on our detention costs and on detaining other than Mariel Cubans, but we are also going to have a problem with our travel funds, with removing aliens from the United States. It will also impact on the removal of aliens from the United States. What we are going to have to do essentially is address the problem in the long term. We can at some point pace apprehensions, but that is one approach to the problem which I think will create even greater problems.

Senator SIMPSON. Well, is not what happens when you do not have the funds to detain apprehended persons, you release them?

Ms. HIGGINS. Yes.

Senator SIMPSON. That is what is done?

Ms. HIGGINS. Correct.

Senator SIMPSON. The American public ought to be aware of that. I think sometimes they are and sometimes they are not. The aliens are just released. I mean, that is it, is it not?

Ms. HIGGINS. Right. And part of the problem is then it becomes more of a magnet. If it is known that aliens are being released, obviously we will have more apprehensions because it will be a magnet effect.

Senator SIMPSON. I think they will also be surprised at how many are deported by air. What is that budget?

Ms. HIGGINS. We normally spend \$9 million on travel costs per year.

Senator SIMPSON. At least they do not go first class, do they?

Ms. HIGGINS. No, they do not.

Mr. KISOR. Mr. Chairman, I might note that because of our lack of detention capacity, our other than Mexican apprehensions for the first half of this fiscal year, are over 42,000 Central Americans, a 17-percent increase over last year. We feel that the message is getting back to those Central American nationals that we do have a lack of capacity. It is a magnet, as Ms. Higgins states.

Commissioner NELSON. Mr. Chairman, if I might, I would add a couple other points I think are relevant. One, we have, I think you and the committee know, acquired an aircraft, a Convair, to carry 50 or so passengers that we can now use to transport the illegal aliens, particularly throughout the country, and this will overall be a cost saver in terms of transporting illegal aliens and be able to give us more flexibility.

Another thing is—

Senator SIMPSON. Was that a confiscated craft?

Commissioner NELSON. No. That was military surplus that was acquired.

Senator SIMPSON. But you do have confiscated vehicles.

Commissioner NELSON. We do, and we do have some smaller planes that we have confiscated. We have not gotten any big ones yet. If we would, we would confiscate those.

Another point I might mention that is related is in our discussions with the Mexican Government, we have again raised the issue of our desire to reinstitute the Interior Repatriation Program, which of course has gone over the years sporadically. Clearly, as illegal aliens from Mexico get to the border areas, they congregate in Mexican border cities, creating some economic problems there, and it is easier for them to continue to try entering the United States. So we are hoping, even though it is a difficult diplomatic issue with Mexico, to again try to get that reinstituted. While it has some increased costs, the message being sent that people will be returned to their home areas in the interior can be one of the deterrent factors.

Senator SIMPSON. I understand that the average detention time for non-Mexican aliens has been increased recently and that this is adding to the detention program's work load. Could you please tell

us briefly what the average detention time is today for a non-Mexican detained alien and what that figure was 2 years ago? And to what do you attribute such a change or increase?

Ms. HIGGINS. Mr. Chairman, the average detention time in fiscal year 1985 for a non-Mexican detained alien is 14.5 man-days. Two years ago in fiscal 1983, the average detention time was 15.9 man-days. We attribute this increase to the incarceration of the Mariel Cubans which has added to our man day average, but also to the fact that more aliens are under proceedings who are in our detention facilities; we have more other than Mexicans in our detention facilities; they are availing themselves of any possible administrative relief available; there are extensive appeals available both administrative and judicial, and this has increased the problem.

Senator SIMPSON. OK. I already have asked about naturalization, but I know that you are aware there have been a couple of bills come in that were introduced solely to try to avoid the long wait for naturalization in the Los Angeles area.

So be aware of that. We hope you might address that. I would hate to resort to legislation when that can be done administratively, and we have touched on it already.

Commissioner NELSON. I might comment on that, Mr. Chairman, that we have always had the consideration of possibly favoring what is called administrative naturalization rather than using the court system.

I have turned around on that. I really believe that the use of the courts is very significant. It is an excellent program. Other than the few areas where we have had difficulties, it works well. So we would not favor policy legislation that would take away the court's responsibility in this area. We think most of it can be handled through regulation or administrative action. If there is need for legislation, it ought to be to enhance the use of the judiciary and certainly not to substitute another program for it.

Senator SIMPSON. Let me ask you about the SAVE Program. You stated that six States now are formally participating in the SAVE Program. A number of other States have undertaken the SAVE pilot project.

Could you please give us a list of all the States which have participated in pilot projects, a list of any States that have chosen not to formally enter the program, after conducting a pilot project, and the reasons that any such States have given for not continuing that participation?

I understand that one State did choose not to participate after apparently a less than successful pilot project.

Commissioner NELSON. I am not aware of that. I can verbally respond, and we will submit in writing a more detailed response. But we have currently on the program, you might say the initial starter States, California, Illinois, and Colorado. We have added in the last year or so four others: Florida, Indiana, Montana, and Idaho. We have a pilot program underway in South Carolina. We have one that was run and completed in Texas, and we are looking forward to expanding that.

There are a number of other States with whom we have had discussions and are pursuing either pilots or formally entering the program. Down in North Carolina, while they indicated some inter-

est in possibly proceeding and have said they are not sure they will now, we are still discussing that. Texas has completed their project, and we are continuing the discussions. I have had no indication that anybody is not going to pursue it. There have been a combination of reasons, probably inertia, some political concerns, and others. But by and large, the program has been well received either by Governors or by State welfare or the labor departments or others, and it is like any program, it is getting it going. But we have been very pleased with it. Of course, it is more important that it be implemented nationwide in all programs.

The foundation of SAVE is so simple. Under almost any benefit program that exists, there is a prohibition against illegal aliens receiving those benefits. So all SAVE does is give the States and the Federal agencies involved an ability to enforce their existing law. It does it fairly. It does it very cheaply. It saves big money because it avoids payments to those not entitled, and it enhances payments to those aliens entitled to get benefits. So it really has all the characteristics of a good Government program.

We know there are some people that do not like it, largely because they do not like to cut benefits off anybody, whether they are entitled to it or not. Anybody reviewing it in any State or in the Congress will realize it is a very, very good program. So we will continue our efforts, and that is why we certainly seek that additional million dollars to enable us to have the ability to do so.

Senator SIMPSON. All right. Let the record show that when we refer to SAVE, we are referring to a program which is known as the Systematic Alien Verification for Entitlements Program [SAVE].

A frequent criticism of the program is the potential unreliability of the old A-file records, alien file records derived from the MIRAC system. Those old A-number records are reportedly entered into a new central index, I understand.

How reliable are the old records, and to what class of legal aliens would they apply?

Commissioner NELSON. We think generally, Mr. Chairman, that they are quite reliable. Again, in any system, as you develop and move forward, it takes some time. There are always going to be some bugs to work out, and that is true in our systems. But we think, overall, the central index, as I indicated in my earlier testimony, has incorporated, I think, 20 million records or more. We think it works well.

But even if there are some errors, and we certainly do not think there are many, that is no reason that SAVE will not work. Because SAVE is a two-step process. The first step goes to the computer. So if the alien's name is sent in with the appropriate identifying information and that name comes out as a positive, that that person is here legally, then that information is passed back to the benefit agency.

However, if we do not have the name in our record, and that might be due to an error or it might be due to a misspelling or wrong date or, of course, due to the fact that person is not here legally then we ask the State agency to get a secondary verification from the alien applicant. Under law they are required, of

course, to have documentation showing their legal status. They are merely asked to Xerox that, send it to us, and then we can check it.

So even if our computer records are not accurate, their SAVE status can be easily checked on this secondary verification without any need for them to come to our office, any risk or danger. And if they cannot and do not produce proper documentation, then they are not here legally. So, again, it works well, and I think there have been some misleading allegations by critics that because the computer system might have some problems—which it largely does not—that therefore we should not go forward. We think we have answered that in the program.

Senator SIMPSON. I have a question now for Doris Meissner. I regret that Senator Simon is not here. I would share that you and I have worked long and hard with regard to Select Commission activities. It is a pleasure to see you always and good to see you visibly involved in these areas where you have such a remarkable background.

I want to ask you about the GAO report of March 1986 which states that in obtaining equipment for the INS's automation program that there may have been a violation of procurement regulations by conducting additional negotiations "with IBM in a late-night meeting held after receiving best and final offers from IBM and EDS."

Is that finding accurate, and do you have personal knowledge as to what transpired at that meeting on May 10, 1984?

Ms. MEISSNER. Senator Simpson, thanks for your kind words. It is always a pleasure to be before the committee.

On the GAO report, the INS did properly adhere to Federal procurement regulations. There was a meeting that did occur in the evening. It was a meeting that was in no way secret or unknown. It was for the purpose of obtaining clarification from IBM representatives about certain things that they had put in their offer.

The GAO characterizes that meeting as one which was a negotiating meeting. Negotiations were not held; it was purely an information exchange. It was a clarifications meeting.

A similar meeting was carried on with EDS to establish certain clarifications in the proposals they had made.

I do not have personal knowledge of that meeting; in other words, I was not involved in it, I did not speak to the people who were involved in the meeting. But it is on record in INS. The people who attended the meeting signed in. There were very clear ground rules established. No paper was exchanged. No pricing or offers were changed as a result of the meeting. It was purely for the purpose of obtaining clarification of the bid offer.

Senator SIMPSON. And there were how many at that particular meeting, do you recall?

Ms. MEISSNER. I would have to check that. I believe that there were two or three INS representatives and about four or five IBM representatives. We could provide that.

Senator SIMPSON. If you would.

The GAO report also found that the prices the INS paid for the computer equipment, and I quote again from the report: "Have in all instances exceeded both published IBM list prices and IBM's originally awarded prices by between 9 and 25 percent," and that

this payment level obviously contrasts sharply with both commercial and Federal practices.

How did that occur? And if it did, why did INS pay such a price for the equipment?

Ms. MEISSNER. The benchmark that is used here as far as pricing is concerned is something known as GSA schedule, which is the generally accepted level within the Government to measure what you are paying for equipment.

GAO, in looking at the prices that we paid, correctly observes that Federal agencies today are buying equipment at certain significant percentages below GSA schedule. But those are agencies that are buying equipment outright.

In our case, we have leased equipment because we have never had or have not had for the last 2 years sufficient money in any single appropriation to be able to buy the equipment outright.

So when you lease it, you lease it over several years, and ultimately you own it. It is like being on a mortgage plan and the cost of money is involved. Our pricing under lease arrangements is comparable with what other agencies have paid.

I think it is important also to put the pricing issue into some context, because GAO talks in its report in very large number amounts. It talks about contract amounts and payment amount of \$60 million, \$80 million. INS has spent \$14 million through this fiscal year on hardware under this contract. Had we paid GSA schedule prices for that hardware, we would have paid \$1.6 million less than we paid.

Now, that \$1.6 million, of course, is a lot of money, but in terms of cost benefit, the amount of money that we have been able to save internally by enhancing our operations and completing a much heavier workload without additional resources has far outweighed that \$1.6 million differential.

So it is our view that one needs to assess the prices in the context of the overall contribution that the hardware has made to the agency's effectiveness. And it is our strong position that it has been very cost effective for the Government from that point of view.

Senator SIMPSON. What actions with regard to further computerization does INS plan to take as a result of the GAO report? And are those actions consistent with the recommendations of the GAO report?

Ms. MEISSNER. We are in compliance with GAO's recommendations. GAO has made essentially two substantive recommendations. The first is that we reassess and do a careful analysis of our future needs for hardware in the agency. The second substantive recommendation is that we compete, that is test the marketplace for the equipment that we will need in the future, and then cancel the current contract that we have.

We are presently in a status quo situation and are complying with those recommendations. We have an agreement with FedSim, which is an arm of GSA, a very highly respected analytic organization. They are studying our entire automation picture and will give us a report in September. The report will provide an objective analysis of our needs with options and recommendations for the future.

We will not be obtaining any additional equipment under the contract that we presently have. Any future equipment that we

need as identified in the FedSim study will be recomputed. Therefore, we are in compliance with GAO's recommendations.

Commissioner NELSON. Mr. Chairman, let me just add a couple things to that. One, I think the GAO report really creates some false impressions, because on the issue of this meeting not only has Mrs. Meissner covered a lot of it, but there was litigation. There then was a settlement between all parties—EDS, IBM, and the Government. It was reviewed by all of the various governmental units within the executive branch that review those things, including the U.S. attorney, and then approved by the Federal district judge here in Washington. Then the suit was dismissed and a settlement agreement agreed to.

So we think if there was any problems—which we do not think there were—that it was remedied. We avoided lengthy litigation, and that should be clearly noted.

The other thing, I think, in the overall thing as part of my earlier testimony and as far as Ms. Meissner's, we made dramatic progress in data processing. I think any objective observer notes that. In about 1977-78, there had been a similar problem as I understand it. It was before my time, but the GAO report came in and everything ground to a halt. Nothing was done in data processing for years. INS was put way behind, and we are just still catching up with it. We have made dramatic progress.

I gave the example earlier, which I think is appropriate, comparing the Libyan situation today with a quick identifier through our data processing to the Iranian situation 6 years ago. I think it is dramatic. And the one thing that cannot be done under any guise, whether GAO is correct or not—and we do not think so—is that you cannot stop going forward and you cannot cut the budget in this area. As indicated, the amount of money involved is much smaller than indicated, and I think it is unfortunate those allegations are made. And even if you read their recommendations in one way, they even talk about pulling out the 1,600 terminals that are out there. Not only would that cost all kinds of money but it would be ludicrous.

Now, if you read their recommendations in a series rather than parallel, you do not get to that conclusion. We understand that they mean their recommendations in series and would not be pressing to pull out existing equipment.

Also, as Doris indicates, we are going to recompute future needs. That is not an indication that we agree with GAO's conclusion. It is just a matter of the marketplace. It is like the mortgage market. Today you can go out and refinance because you can get much better rates. That is true in buying computers also, so I think that is the reflection.

So we agree with some of their bottom line conclusions as long as it is not misread to pull back or to slow us up or to stop budget appropriations in this area. We disagree with some of the methods, but we would hope we can go forward with GAO. A number of us met with Chairman Jack Brooks the other day and hopefully have tried to clear some of the air in the House on this, and we hope we can work with you and your committee and anybody else to avoid some of the politicking on this kind of thing that unfortunately

could really hamper a program if somebody continued to try to pursue some inappropriate approaches.

Senator SIMPSON. Thank you, and we will be glad to work with you and see where we go on that. I think it is very important to preserve the credibility of that system if there are defects. I know of the litigation, and I do not think people are quite aware that there was litigation and a settlement there. Certainly that record should be available to anyone questioning, too.

Let me just ask one little bit of a diversion but it is important, and we are going to go into this further in future weeks. I understand that the Justice Department—and I do not know what knowledge you may have of this—but the Justice Department is considering new procedures to give a presumption of refugee status to nationals of "totalitarian" countries—the Eastern bloc and others that fit in that definition, apparently.

I would like to know just what is being discussed. I have requested but not received a copy of the proposal, and I would like to know what that is.

Commissioner NELSON. This issue is being discussed, Mr. Chairman; although as I say to others in our organization and so forth, do not believe everything you read in the papers. About a year ago, we submitted to the Attorney General a comprehensive set of new regulations for asylum. Those have largely been reviewed internally over a long time within INS. We have reviewed them with the immigration judges and the Executive Office of Immigration Review and also with the State Department, the appropriate agencies there. And we largely had agreement. We think those were good programs.

We submitted those in April. There is indication the Attorney General might be signing them, but then we had some counter offers, if you will, of several others within Justice and others that felt there ought to be this type of presumption you refer to regarding the Communist countries. And there were a lot of discussions going on. They are still going on. There finally were some written proposals. We have reviewed them and had a lot of discussions back and forth. I have made my position very clear to the Attorney General that I think our proposals were sound and make sense. I think there are some serious questions with these other proposals and have made that position clear. I talked to the Deputy Attorney General, and his agreement is that we convene a top level group within Justice, including the Deputy, the Associate Attorney General, the head of the Office of Legal Counsel, the head of the Civil Division, myself and others to review these various proposals and anything in between thoroughly, and to then make our recommendations to the Attorney General so he has the best benefit of everybody's opinion on it as possible.

There is nothing imminent, as far as I know. Again, there are different people pushing different things, but it is important internally that we have a thorough discussion. I am aware of your concern and that you have written to the Attorney General, and we certainly are as committed as we can to work with you. I know similar concerns have been expressed by Chairman Mazzoli, and I think it is an important issue. I think the Attorney General realizes, also, that there are others involved, such as the Congress, as

well as the State Department, the need to have full input on this issue.

I am satisfied, from what I understand, that there will be full and thorough discussion before anything is finally proposed.

Senator SIMPSON. Another thing that was so curious to me, I understood that automatic work authorization for asylum applicants had been proposed. I wonder if anybody is really thinking what would happen if the literally hundreds of thousands or millions who cross our borders, southern or northern, would begin claiming asylum merely to obtain work authorization to work in the United States of America. Somebody ought to be getting the stuff out of their ears on that one. I think it can be absurd.

Commissioner NELSON. I concur with your analysis.

Senator SIMPSON. We will be awaiting information. Thank you very much on that. I intend to follow that one closely. Either we will go back to where we were before the Refugee Act or we will stick with the Refugee Act. That is the choice. If we are going to go back, we must let the American public know where that goes: you talk about magnets.

As you and I know, it is very difficult messing around in this area because the American public makes no distinction whatsoever, between a refugee, an asylee, a legal immigrant, an illegal undocumented immigrant, an extended voluntary departee, a special entrant, and a permanent resident alien. They do not make any distinction at all, but the distinctions are extraordinary.

Let me just ask you a final question regarding the Medvid case, revisited. I think we have covered that pretty well. I want to thank the INS very much for the assistance in those hearings. It was difficult for you to do and difficult for some of the people testifying who had been disciplined by the INS. But at least I find—I have visited with Senator Humphrey, we have had a good visit—I think he is generally satisfied with the depth of our inquiry. Of course, with the Helsinki Commission jurisdiction, we shall see what occurs there. But anything they would develop is directly what we have developed here, because it was an issue that took on a life and substance of its own in the midst of pretty heavy commentary from all sources.

But with regard to the Medvid case, what was the conclusion of the Carmichael Task Force on the soundness of current INS policy and guidelines for the handling of asylum cases regarding Communist bloc nationals?

Commissioner NELSON. Mr. Chairman, before responding on the Carmichael report, I would like on behalf of the Immigration Service to thank you personally and your full committee, and certainly Mr. Day, your counsel, for your thoroughness in this matter, for your fairness and for covering the issues very well in, as you say, a very difficult area. As you indicated, I think it produced very witness in the Government and many outside that dealt with this whole issue from start to finish, and there can be no question that this was thoroughly covered by your committee. We do appreciate how that was handled.

On the Carmichael report, as indicated, there were really three parts to the Medvid matter. There was the initial handling of the case, the handling of it after Medvid was returned, and then re-

brought off of the Soviet vessel; and then the third part was the basic foundation of procedures to handle this type of case.

As we indicated in our earlier testimony in this matter, our belief was that the basic procedures for handling this type of case were fundamentally sound. We had written procedures, we had other things that, had they been followed, this incident would not have occurred in this fashion. But we wanted to review it ourselves as well as, obviously, others were interested in such a review.

We brought back retired Associate Commissioner Carmichael, and he and others worked diligently for a number of weeks in reviewing all our procedures—written, oral, training and so forth—rendered a report, a preliminary report, and then a few weeks a final report. I believe we have previously provided the committee a copy of the preliminary one and recently the final one, and certainly it has been available for the committee's review and any other materials will be provided, if it has not already been so.

But we think the recommendations made reaffirm the position that the basic procedures we had in this area were fundamentally sound and are, but we could use more emphasis. Certainly to reemphasize it within the training, to focus on several procedures within our regulations that talked about how to deal with this type of situation, to be sure that our people on the line, as well as those going through training, were alert to and aware of and had retraining, so to speak, on it. And I can say that we have accepted, I think if not all, then just about every one of the numerous recommendations in the Carmichael report and have implemented those in our various procedures.

I might ask Mr. Norton to elaborate if the committee desires.

Senator SIMPSON. Did you have—

Mr. NORTON. Well, we can elaborate on the specific provisions that we took in order to make sure that this did not happen again.

Senator SIMPSON. I understand some of the specific recommendations are with regard to the adequacy of the current written procedures, the use of interpreters—there certainly was room for improvement there—telephone and other communications capabilities, and additional training on "immediate action" cases for INS personnel.

Could you summarize briefly the most significant recommendations in these areas and briefly tell the subcommittee or furnish for the record whether these recommendations have been implemented?

Mr. NORTON. Yes. In fact, in all four cases we feel they have been implemented. But addressing them in order, the adequacy of current written procedures was, of course, our first concern.

In reviewing our regulations on asylum, we were quite happy with what the procedures were. In fact, all cases are supposed to be reported directly to me that involve any sensitive circumstances such as this, and we were happy with those provisions.

However, there was an area that we felt needed improvement. That was our general regulation on the need to notify superiors and central office, in particular, of unusual events. This instruction has been clarified, and I will bring that up later in one other key area, the area of training, where we have also emphasized this.

Second, the use of interpreters. We tried to stress redundancy in our capabilities with interpreters, making sure that not only is there a district list and a sector list, but also regional and central office lists of all interpreters, so that perhaps we do not have a repeat of the circumstance where a particularly poor phone hookup with an interpreter in New York interpreting for a case in New Orleans may have led to some confusion.

Third, the telephone and communication capabilities have been enhanced. There is now a centralized listing on a 24-hour basis at our communications center in Washington that includes officers at all key levels. This list has been automated, and again, as I said earlier, it includes an interpret list so that we have that level of redundancy in our system.

Last, the training has been changed. We have done such basic things as changing our tests to include problems on when to notify superiors and what may be sensitive circumstances. We have stressed the operation instruction known as 103.1(g), which requires notification to superiors in such circumstances.

In fact, we have requested all the sectors and all the districts in INS to specifically mention this, to train people in this critical operations instruction very 90 days to reemphasize the need to communicate these sensitive circumstances to Washington.

We feel that the adoption of these improvements in the four areas have addressed the deficiencies that the Carmichael report identified.

Senator SIMPSON. Well, I appreciate that because we were aware in the hearings that the two agents did not seem aware of what "immediate action" was when they initially interviewed seaman Medvid and ordered him returned. We would appreciate knowing what information and training and distribution of special procedures is being sent out to the field offices.

I believe there is a task force report, and we will refer to that in the record without making it part of the record, so that anyone may review that.

We will have some additional questions for the record, and other members of the committee, the subcommittee may have additional questions.

So I believe that, after checking with the Right Reverend Richard W. Day, I find that we have concluded our work. I appreciate it very much. You were very helpful. Oversight is a serious responsibility. I take it as that. We form associations and friendships, and yet our duties are serious. We find, I think particularly with the NASA situation, where oversight sometimes got lost in friendship and complete acceptance.

It has been a pleasure to work with you, and I know we try—at least I try to be seriously addressing what I see as potential problems, and I think you have been forthcoming, always, in presenting that—particularly in the Medvid case when you laid yourself right on the line along with your head and the ax was swinging.

So, I will appreciate the further information and anything that develops with regard to the GAO report—to be sure that the automation was done correctly. I may have some further questions in that area. Thank you very much, all of you.

That concludes the hearing.

Commissioner NELSON. Thank you, Mr. Chairman.

[Whereupon, at 11:38 a.m., the subcommittee adjourned, subject to the call of the Chair.]



APPENDIX

SUBMITTED ANSWERS TO QUESTIONS ON IMMIGRATION AND NATURALIZATION SERVICE FISCAL YEAR 1987 BUDGET

Question. The Balanced Adjudications System appears to have achieved significant efficiencies in the processing of applications that do not require personal interviews. However, there has been some criticism of the system in instances where the application has been submitted but additional information is required, or when applicants have not received a reply by INS after six to nine months. What mechanisms do the "RAC's" employ to ensure efficient communication with applicants when an application is not completed, and what steps should an applicant take when his application has not been responded to for nine months?

Answer. All four of our Regional Adjudication Centers (RACs) have a standard turnaround time of 30 days for all adjudications which are handled by them. A test conducted at one of our RACs recently resulted in an average turnaround time of 10 days or less for 70% of the cases received for processing. It is unlikely that cases would remain in a RAC for six to nine months. A new ADP system has been developed by INS called FARES (Fees and Application Receipt and Entry System). This system has been installed in our Eastern RAC and is scheduled for implementation in the other three RACs by the end of this year. One of the many features of this system is that it provides a receipt to all applicants whose cases are sent to a RAC for processing. The receipt notifies the applicant of an address where inquiries can be made if a decision has not been received by the applicant within 90 days.

Question. A GAO Report of March 1986 discussed criminal aliens and the INS's efforts to apprehend them in New York City Area. One conclusion of the report is that, "Potentially deportable aliens are not always investigated and apprehended." Why were the 200 cases that GAO specifically reviewed not given a greater priority in the New York District Office?

Answer. The jurisdiction of the New York INS District Office encompasses 150 law enforcement and prosecutorial agencies. INS efforts to distinguish between legal and illegal aliens arrested and/or prosecuted by these entities results in the identification of a large number of potentially deportable aliens. Once the alien is convicted there is generally no urgency to assign the matter until the sentence is near completion. Additionally, a sufficient number of cases to be investigated at any one prison facility are collected so as to make effective use of resources.

INS, like other enforcement agencies, must establish and maintain limits on resource allocation and usage. A balance of effort is carried out by assigning priorities to certain cases. Through this priority system, resources are directed at aliens convicted of the most egregious crimes, as well as other criminal offenses within the investigation jurisdiction of INS.

INS has no control over the illegal re-entry of criminal aliens previously deported, or even through normal admission procedures when prior criminal deportees utilize fraudulent documentation to obtain a visa and enter the United States.

All apprehended aliens, including those referred to in the GAO report, are accorded due process throughout the deportation procedure. They have numerous opportunities to extend or delay deportation proceedings through full utilization of administrative and judicial appeals. During this protracted process the alien is normally free on his or her own recognizance on a low delivery bond as determined by an immigration judge. The scheduling of initial and continued deportation hearings are determined by the New York Office of the Executive Office of Immigration Review (EOIR). Immigration judges in making their determinations in deportation cases in many instances permit aliens to voluntarily depart the United States in lieu of deportation. During the period between the judge's decision and the mandated departure date, the alien is not in custody, and additionally, the alien may apply for an extension of the departure date.

A significant controlling factor relating to apprehensions and custody cases in the New York District is the fact there is only a single detention center facility available. This detention facility operates constantly at full capacity. Moreover, funding limitations prevent the Service from utilizing, even when available, non-Service detention facilities at the rate of \$70 per day per person.

Question. Please provide for the hearing record the results of the SAVE pilot in New York State. Were INS and New York satisfied with the results of the program, and does New York plan to formally participate in the SAVE Program as a result of the pilot project?

Answer. The pilot between the Immigration and Naturalization Service (INS) and the Department of Labor (DOL) involving 97 Unemployment Insurance Offices in the State of New York began March 29, 1985 and ended June 27, 1985. A total of 12,484 aliens' names were checked against the Service's data base: 10,972 were determined to be lawful permanent resident aliens; 777 other than permanent residents; and 735 had no record in the INS computer data base.

The Service requested that the 1,512 "questionable" cases be examined more closely, and that the Service be given the opportunity to review the documentation of these applicants. Instead the State of New York chose to conduct its own verification procedure. The DOL authorities subsequently advised INS by letter that they had interviewed the 1,512 aliens, found 54 ineligible to receive benefits, and reported cumulative savings of \$51,722. Based on this exercise, New York notified INS that it had decided not to participate in the program. INS was never given the opportunity to examine the documentation of the 1,512 "questionable" cases reviewed by state personnel. (This is the standard requirement for determining the status of questionable cases, under the "secondary verification" procedure of the SAVE Program.)

The INS feels that had the Department of Labor in the State of New York utilized the secondary verification procedure, their statistical results would have been considerably more cost effective, and many more unentitled alien applicants would have been identified.

Question. In testimony before the U.S. District Court for the Central District of California (*Perez-Funez v. INS*), Harlin M. Keister, Chief of the Index System Section of the INS, testified that MIRAC is unlikely to be a reliable data base for alien verification under the SAVE program. How many MIRAC records must be used to supplement the "Central Index" data base, and to what class of aliens do these records apply?

Answer. At present, 22 million MIRAC records are in the automated system for access under the SAVE system. MIRAC records not in the automated system are those records which for the most part date back to prior to 1957. These records primarily pertain to lawfully admitted permanent residents and/or naturalized U.S. citizens. We do not have counts on how many MIRAC records are necessary to supplement the "Central Index" data base for SAVE purposes, but experience suggests that this would be a very low percentage of records searched under SAVE. These nonautomated records are searched through the secondary verification process, involving accessing manual files and/or other automated systems not made available to non-INS employees.

Question. The FY 1987 Budget Request estimates that applications for naturalization will decrease during FY 1986 from their FY 1985 level, and then increase slightly during FY 1987. David North, in his study, "The Long Gray Welcome: A Study of the American Naturalization Program," predicted that there will be a steady increase in naturalization applications during the period 1985-1990, because of the large number of immigrants in the late 1970's and early 1980's. On what does INS base this prediction of decreased applications for FY 1986, and will INS be able to accommodate naturalization applications without additional backlog if such a decrease does not occur?

Answer. By utilizing trend line analysis, giving greater weight to long term data, we discovered that during the last months of FY 1985 and the first months of FY 1986 the surge in naturalization applications the Service has experienced in recent years is beginning to abate. From this we conclude that if the actual number of receipts does not decrease during FY 1986, any increase will be marginal. It is not uncommon for the volume of receipts to fluctuate from year to year in this manner. Once the volume of receipts has stabilized itself at the higher level of recent years it is anticipated that a moderate rate of growth will continue.

The Service expects to be able to cope with the projected volume of receipts without growth in backlogs. Some additional receipts could be accommodated without serious adverse effect.

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